



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/844,843

04/27/2001

Claudiu D. Pruteanu

20010142.ORI

2768

23595

7590

06/22/2006

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

EXAMINER

KEENAN, JAMES W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,843

Applicant(s)

PRUTEANU ET AL.

Examiner

James Keenan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-53, 55-57, 59-62 and 64-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-53, 55-57, 59-62 and 64-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/28/06 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 51-53, 55-57, 59-62, and 64-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In independent claims 64 and 65, it is not clear what is meant by "the necessary available ... clearance space", in that the metes and bounds of the claim are not clearly set forth. Adding the phrase "lateral and vertical" may describe the type of clearance, but it does not overcome the rejection, because regardless of the type, it is not clear what clearance would be "necessary" and "available".

4. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christenson (US 5,931,628) in view of Brandt (US 5,851,100), both previously cited.

This rejection is set forth in prior Office action, mailed 4/22/05, paragraph 2, and repeated in the 9/16/05 and 2/28/06 Office actions.

Applicant again argues that the arm arrangement 140 of Christenson shown in the figure 8 embodiment is not disclosed in combination with the container grabber 160 shown in figures 7, 9, and elsewhere. Applicant is again directed to col. 7, lines 10-12 in which, referring to the arm arrangement 140 of figure 8, it is disclosed that "any lifting arm ... may be used with any container grabbing ... apparatus".

Applicant is also directed to the following paragraph, in which it is disclosed that the grabber 160 of figure 7 "may be used with any arm of the present invention". Thus, contrary to applicant's assertion, Christenson explicitly teaches the use of the arm 140 of figure 8 with the grabber 160 of figure 7.

5. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christenson in view of Brandt, as applied to claim 64 above, and further in view of Duell et al (US 6,123,497), Tordenmalm et al (US 4,896,582), and Sizemore et al (US 5,505,576), all previously cited.

The rejection of this claim without the Sizemore et al reference is set forth in prior Office action, mailed 4/22/05, paragraph 3, and repeated in the 9/16/05 and 2/28/06 Office actions.

The additional feature of mechanical stops 103, 105 to limit the extremes of travel of the arm are shown in figure 8 of Sizemore, see col. 6, last line to col. 7, line 2.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Christenson with mechanical stops to limit the travel of the arm, as suggested by Sizemore et al, as this would merely be an art recognized design expediency.

Additionally, the use of "computerized" control means, absent any further limitations, is considered merely an additional obvious design expediency, as it has been held that broadly automating or "computerizing" control systems requires only routine skill in the art.

6. Claims 51, 55, 56, 60, 61, 65, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christenson in view of Brandt and Sizemore et al.

This rejection is set forth in prior Office action, mailed 4/22/05, paragraph 4, and repeated in the 9/16/05 and 2/28/06 Office actions.

7. Claims 52, 53, 57, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christenson in view of Brandt and Sizemore et al, as applied to claims 51, 55, 56, 60, 61, 65, and 66 above, and further in view of Duell et al.

This rejection is set forth in prior Office action, mailed 4/22/05, paragraph 5, and repeated in the 9/16/05 and 2/28/06 Office actions.


8. Applicant's arguments filed 4/28/06 have been fully considered but they are not persuasive.

Art Unit: 3652

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
6/20/06